

# Notice of Allowability

Application No.

09/887,264

Examiner

Ngoc-Yen M. Nguyen

Applicant(s)

CHARLES ET AL

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to February 10, 2004.
2. ☒ The allowed claim(s) is/are 1-19.
3. ☒ The drawings filed on 05 September 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Ngoc-Yen M. Nguyen  
Primary Examiner  
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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-19 are, drawn to a process for producing chlorine dioxide, classified in class 423, subclass 478.
- II. Claims 19-21 are, drawn to an apparatus, classified in class 422, subclass 189+.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to produce hypochloric acid or a metal hypochlorite.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Serbin on May 3, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 20-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

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or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Serbin on May 3, 2004.

The application has been amended as follows:

-Cancel non-elected claims 20-21.

The following is an examiner's statement of reasons for allowance: the prior art does not disclose a process for producing chlorine dioxide which comprises the step of passing water through an eductor in an at least partially spiral or helical manner and transferring chlorine dioxide product to the eductor and mixing it with the water.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen M. Nguyen whose telephone number is (571) 272-1356. The examiner is currently on Part time schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Stan Silverman can be reached on (571) 272-1358. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed (571) 272-1700.



Ngoc-Yen M. Nguyen  
Primary Examiner  
Art Unit 1754

nmn  
May 3, 2004